

**CALIFORNIA COASTAL COMMISSION**

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W6d



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## APPEAL STAFF REPORT – DE NOVO REVIEW

**Appeal number** .....A-3-SCO-02-092, Webb SFD/Coastview Drive improvements

**Applicant**.....Margaret Webb Trust

**Appellants** .....Commissioners Sara Wan and Pedro Nava

**Local government** .....Santa Cruz County

**Local decision** .....Approved with Conditions (October 4, 2002)

**Project location** .....Coastview Drive off of East Cliff Drive adjacent to Corcoran Lagoon in the unincorporated Live Oak region of Santa Cruz County.

**Project description**.....Construct one single family dwelling, define two additional single family dwelling development envelopes, and improve Coastview Drive.

**File documents**.....Santa Cruz County Certified Local Coastal Program (LCP); Santa Cruz County coastal development permit (CDP) Application File 01-0090; Monterey Bay ReCAP.

**Staff recommendation** ...Approval with Conditions

**Summary of staff recommendation:** This proposed project is located adjacent to Corcoran Lagoon in the unincorporated Live Oak beach area of Santa Cruz County, just inland of East Cliff Drive and the beach. Coastview Drive is a private road that extends inland from East Cliff Drive immediately adjacent to the Lagoon, and the residential sites are on the opposite side of Coastview from it. At a January 2003 public hearing, the Commission found that a substantial issue exists with respect to the project's conformance with the certified Santa Cruz County LCP and took jurisdiction over the CDP for it. Although located in a fairly built-out residential area (the Live Oak beach area of the County), the project raises coastal resource issues primarily due to its location near Corcoran Lagoon (an LCP-designated environmentally sensitive habitat area (ESHA)), and because it is located on a LCP-designated Coastal Priority Site where specific public access and wetland protection requirements apply.

In the time since the substantial issue hearing, the Applicant has worked with Staff to develop a project that could be found consistent with the LCP, and has modified their proposed project accordingly. The project as now proposed: maintains a 100-foot residential setback from Corcoran Lagoon; includes natural filtration and treatment water quality BMPs (developed in consultation with the Commission's



California Coastal Commission

June 2004 Meeting in San Pedro

Staff: D.Carl Approved by:

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water quality staff); includes a meandering public access pathway with benches to provide interpretive access to Corcoran Lagoon (and through access from East Cliff Drive to inland Portola Drive); includes placement of appropriate new signs to inform visitors of the path (and removal of existing signs that restrict such access); includes construction BMPs to protect access and Corcoran Lagoon habitat; and includes recordation of the terms and conditions as a deed restriction on the Applicant's property.

In addition to the Commission's standard conditions, two conditions are recommended here. The first identifies the approved project via the submitted and proposed modified plans (for clarity in permit implementation and condition compliance). The second indicates that any County conditions imposed under an authority other than the Coastal Act continue to apply. The Applicant and Staff are in agreement on the proposed project and the recommended conditions.

The now proposed project, as conditioned, addresses the previously identified substantial issues to the degree feasible, and it can be found consistent with the LCP and the applicable access and recreation policies of the Coastal Act. Staff recommends approval with conditions.

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## 1. Staff Recommendation on CDP Application

The staff recommends that the Commission, after public hearing, **approve** a coastal development permit for the proposed development subject to the standard and special conditions below.

**Motion.** I move that the Commission approve Coastal Development Permit Number A-3-SCO-02-092 pursuant to the staff recommendation.

**Staff Recommendation of Approval.** Staff recommends a **YES** vote. Passage of this motion will result in approval of the coastal development permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

**Resolution to Approve a Coastal Development Permit.** The Commission hereby approves the coastal development permit on the grounds that the development as conditioned will be in conformity with the policies of the Santa Cruz County Local Coastal Program, and it will be in conformity with the access and recreation policies of Chapter 3 of the Coastal Act. Approval of the coastal development permit complies with the California Environmental Quality Act because either: (1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment; or (2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse effects of the development on the environment.

## 2. Conditions of Approval

### A. Standard Conditions

- 1. Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the Permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
- 2. Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
- 3. Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
- 4. Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.



- 5. Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the Permittee to bind all future owners and possessors of the subject property to the terms and conditions.

## B. Special Conditions

- 1. Approved Project.** The approved project is detailed in the plans submitted to the Coastal Commission titled *Coastview Drive Project* by Franks Brenkwitz & Associates last dated revised May 6, 2004 and dated received in the Coastal Commission's Central Coast District Office on May 11, 2004 (Approved Plans). All requirements identified in the Approved Plans are enforceable components of this coastal development permit. The Permittee shall undertake development in accordance with the Approved Plans. All components of the project shown in the Approved Plans shall be constructed and/or installed. Any proposed changes to the Approved Plans shall be reported to the Executive Director. No changes to the Approved Plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is necessary.
- 2. Santa Cruz County Conditions.** All previous conditions of approval imposed on the project by the Santa Cruz County pursuant to an authority other than the California Coastal Act remain in effect (Santa Cruz County Application Number 01-0090).

## Recommended Findings and Declarations

The Commission finds and declares as follows:

### 3. Project Description

#### A. Project Location

The proposed project is located along Coastview Drive between East Cliff Drive and Portola Drive near Corcoran Lagoon in the unincorporated Live Oak area of Santa Cruz County. See exhibit A for illustrative project location information.

#### Santa Cruz County Regional Setting

Santa Cruz County is located on California's central coast and is bordered to the north and south by San Mateo and Monterey Counties. The County's shoreline includes the northern half of the Monterey Bay and the rugged north coast extending to San Mateo County along the Pacific Ocean. The County includes a wealth of natural resource systems within the coastal zone ranging from mountains and forests to beaches and lagoons and the Monterey Bay itself. The Bay has long been a focal point for area residents and visitors alike providing opportunities for surfers, fishermen, divers, marine researchers,



kayakers, and boaters, among others. The unique grandeur of the region and its national significance was formally recognized in 1992 when the area offshore of the County became part of the Monterey Bay National Marine Sanctuary – the largest of the 12 such federally protected marine sanctuaries in the nation.

Santa Cruz County's rugged mountain and coastal setting, its generally mild climate, and its well-honed cultural identity combine to make the area a desirable place to both live and visit. As a result, the County has seen extensive development and regional growth over the years since the California Coastal Management Program has been in place. In fact, Santa Cruz County's population has more than doubled since 1970 alone with recent census estimates indicating that the County is home to over one-quarter of a million persons.<sup>1</sup> This level of growth not only increases the regional need for housing, jobs, roads, urban services, infrastructure, and community services, but also the need for parks and recreational facilities, and visitor serving amenities. For coastal counties such as Santa Cruz where the vast majority of residents live within a half-hour of the coast, and most significantly closer than that, coastal zone resources are a critical element in helping to meet these needs. Furthermore, with coastal parks and beaches themselves attracting visitors into the region, an even greater pressure is felt at coastal recreational systems and destinations like the Live Oak beach area. With Santa Cruz County beaches providing arguably the warmest and most accessible ocean waters in all of Northern California, and with the vast population centers of the San Francisco Bay area and the Silicon Valley nearby, this type of resource pressure is particularly evident in coastal Live Oak.

Live Oak is part of a larger area including the Cities of Santa Cruz and Capitola that is home to some of the best recreational beaches in the Monterey Bay area. Not only are north Monterey Bay weather patterns more conducive to beach recreation than the rest of the Monterey Bay area, but north bay beaches are generally the first beaches accessed by visitors coming from the north of Santa Cruz. With Highway 17 providing the primary access point from the north (including from the San Francisco Bay Area, San Jose and the Silicon Valley) into the Monterey Bay area, Santa Cruz, Live Oak, and Capitola are the first coastal areas that visitors encounter upon traversing the Santa Cruz Mountains (see exhibit A). As such, the Live Oak beach area is an important coastal access asset for not only Santa Cruz County, but also the entire central and northern California region.

#### Live Oak Beach Area

Live Oak is the name for the unincorporated segment of Santa Cruz County located between the City of Santa Cruz (upcoast) and the City of Capitola (downcoast) (see page 2 of exhibit A). The Live Oak coastal area is well known for excellent public access opportunities for beach area residents, other Live Oak residents, other Santa Cruz County residents, and visitors to the area. Walking, biking, skating, viewing, skimboarding, bodysurfing, surfing, fishing, sunbathing, and more are all among the range of recreational activities possible along the Live Oak shoreline. In addition, Live Oak also provides a number of different coastal environments including sandy beaches, rocky tidal areas, blufftop terraces, and coastal lagoons. Live Oak also includes a number of defined neighborhood and special communities

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<sup>1</sup> Census data from 1970 shows Santa Cruz County with 123,790 persons; California Department of Finance estimates for the 2000 census indicate that over 255,000 persons reside in Santa Cruz County.



within it. These varied coastal characteristics make the Live Oak shoreline unique in that a relatively small area provides different recreational users a diverse range of alternatives for enjoying the coast. By not being limited to one large, long beach, or solely an extended stretch of rocky shoreline, the Live Oak shoreline accommodates recreational users in a manner that is typical of a much larger access system.

Primarily residential with some concentrated commercial and industrial areas, Live Oak is a substantially urbanized area with few major undeveloped parcels remaining. Development pressure has been disproportionately intense for this section of Santa Cruz County. Because Live Oak is projected to absorb the majority of the unincorporated growth in Santa Cruz County, development pressure will likely continue to tax Live Oak's public infrastructure (e.g., streets, parks, beaches, etc.).<sup>2</sup> Given that the beaches are the largest public facility in Live Oak, this pressure will be particularly evident in the beach area.

#### Proposed Development Site

The proposed project is located near Corcoran Lagoon on the inland side of East Cliff Drive, the first through public road parallel to the sea. East Cliff Drive extends over the Lagoon on a bridge and thus the Lagoon extends from inland Portola Drive under East Cliff and onto the beach, known locally as Santa Maria Cliffs Beach or Corcoran Lagoon Beach. This broad beach extends from a narrow tidal shelf area adjacent to Sunny Cove (upcoast) through to a promontory at 23<sup>rd</sup> Avenue that effectively contains the Lagoon proper most of the year. Contrasting this wide sandy beach area at the Corcoran Lagoon inlet area, the beach setting changes quite drastically at this 23<sup>rd</sup> Avenue promontory and becomes extremely narrow all the way down to the westernmost outcroppings of rock at Soquel (aka Pleasure) Point (downcoast). This narrow portion of the beach is defined on its inland edge by rip-rap protecting residential structures along the blufftop and is most often referred to as 26<sup>th</sup> Avenue or Moran Lake Beach.

Coastview Drive, also known as 22<sup>nd</sup> Avenue, extends along the western side of the Lagoon from East Cliff Drive to inland Portola Drive. Coastview has a gate on its East Cliff Drive entrance, and a wood fence with a pedestrian pass-through at its Portola Drive end; a myriad of signs discouraging and/or prohibiting access and parking are posted at each end. The first 100 yards or so of Coastview Drive extending from East Cliff Drive inland is paved at a width of approximately 15 feet with a curb, gutter, and short fence along the Lagoon side. The remainder of Coastview Drive is unpaved, though fairly compacted from years of automobile use. A mature row of trees, primarily eucalyptus, extends along the western edge of the Lagoon (and the eastern edge of Coastview) from East Cliff to Portola. Coastview currently provides access from East Cliff Drive to four existing single family residences, and from Portola Drive to one existing single family residence (inland of the fence at the Portola end); all of these existing residences are located opposite Coastview Drive from the Lagoon.

This proposed project involves Coastview Drive itself and the three vacant residential parcels (APNs

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<sup>2</sup> The LCP identifies Live Oak at build out with a population of approximately 29,850 persons; based on the County's recreational formulas, this corresponds to a park acreage of 150-180 acres. Though Live Oak accounts for less than 1% of Santa Cruz County's total acreage, this projected park acreage represents nearly 20% of the County's total projected park acreage.



028-173-05, 07, and 08) located opposite the road from the Lagoon. These parcels are located just inland of the paved portion of Coastview and between existing developed SFDs on either side. The vacant property slopes gently upward (at about a 10% slope) away from Coastview and Corcoran Lagoon.

See exhibit A for graphics and photos showing the subject site in relation to the various features described above.

## B. Proposed Project

The Applicant proposes to construct an SFD on APN 028-173-07, to define development envelopes to facilitate future SFD construction on the vacant parcels on either side of APN 028-173-07 (i.e., on APNs 028-173-05 and 028-173-08); and to improve Coastview Drive by extending the pavement, installing a biofiltration water quality system, constructing a 3-foot wide public pedestrian trail between Portola Drive and East Cliff Drive, and modifying signage (see selected proposed plan sheets in exhibit B). More specifically:

- **Residential Development.** A two story, 26-foot tall, roughly 2,800 square foot single-family home would be constructed on the middle lot of the three vacant lots on Coastview Drive (i.e., on APN 028-173-07).
- **Development Envelopes.** Development envelopes would be established on the vacant parcels on either side of APN 028-173-07 (i.e., on APNs 028-173-05 and 028-173-08) that maintain a minimum 100-foot setback from Corcoran Lagoon. Separate CDPs would be required before any residential development could be pursued on these other two lots in the future.
- **Coastview Drive Pavement.** The existing pavement on Coastview Drive (300 feet in length) would be extended 180 feet inland over the existing hard pack, and widened from 15 feet to 20 feet.
- **Coastview Drive Drainage.** The existing catch basin on Coastview Drive (currently draining road runoff directly to Corcoran Lagoon) would be removed and replaced by a roughly 10-foot wide biofiltration swale running along the Lagoon side of the road. This swale has been designed using the California Best Management Practices handbooks, and with the assistance of Commission water quality staff. The swale would include gross filtration at the edge of the roadway through a perforated header filter, and then filtration and treatment of runoff by the native grasses and plants in the swale. It would be sloped from either end of Coastview to the approximate midpoint of the road to allow adequate runoff residence time, and then directed through another filter and an underground pipe to a cobble discharge trench. The road would be swept at least once per year prior to October 15<sup>th</sup>, and all components of the swale system would be maintained at least twice per year (post and pre-rainy season).
- **Coastview Drive Pedestrian Path.** A 3-foot wide decomposed granite, meandering pedestrian trail would be constructed on the Lagoon side of Coastview Drive to provide public pedestrian and



interpretive access between East Cliff Drive and inland Portola Drive. Benches would be installed to further enhance enjoyment of the Lagoon.

- **Coastview Drive Signs.** All existing Coastview Drive signs would be removed and four new signs would be installed (two at either end of Coastview). The signs at either end of the paved road would identify Coastview Drive as a private road, and the signs at either end of the pedestrian path would identify the pathway as a public nature trail.

See selected proposed plan sheets in exhibit B.

## 4. CDP Findings

### A. Applicable Policies

There are a sizeable number of LCP policies that are applicable to the proposed project. Part of the reason for this is because of the number of coastal resources involved (i.e., ESHA, public access and recreation, viewshed/character, etc.), and part of the reason is because of the way the certified LCP is constructed where there are a significant number of policies within each identified issue area, and then other policies in different LCP issue areas that also involve other issue areas (e.g., public access and recreation policies that also require habitat protection, and vis versa). In addition, there are a large number of general County policies applicable, a number of Live Oak specific policies, and then a number of policies specific to this site due in part to its priority site LUP designation. In terms of habitat resources, there are also two whole zoning chapters that include requirements applicable to this site.

Furthermore, Coastal Act Section 30604(c) requires that every coastal development permit issued for any development between the nearest public road and the sea or the shoreline of any body of water “shall include a specific finding that the development is in conformity with the public access and public recreation policies of [Coastal Act] Chapter 3.” Because this project is located between East Cliff Drive (the first through public road) and Corcoran Lagoon, for public access and recreation issues the standard of review is not only the certified LCP but also the access and recreation policies of the Coastal Act.

For brevity’s sake in these findings, these applicable policies are shown in exhibit C. They are summarized below.

#### ESHA

The LCP designates Corcoran Lagoon as both Sensitive Habitat and ESHA as that term is understood within a Coastal Act context (LUP Policy 5.1.2(i) and 5.1.3, IP Chapter 16.32). The LCP requires that development be set back a minimum of 100 feet from Corcoran as measured from its high water mark (IP Section 16.32.090(A)(11)) and designates this 100 foot area as a riparian corridor (LUP Policy 5.2.1 and IP Chapter 16.30). Riparian corridors are also designated as both Sensitive Habitat and ESHA by the LCP (LUP Policy 5.1.2(j) and 5.1.3, IP Chapter 16.32) within which development is generally prohibited (IP Section 16.30.040 and IP Chapter 16.32). Certain development is exempted for the





setback requirements (e.g., continuation of pre-existing uses in certain situations) (IP Section 16.30.050), and exceptions to setback requirements are allowed in certain circumstances, subject to making specific exception findings (IP Sections 16.30.060 and 16.32.100).

ESHA and Sensitive Habitat are to be preserved, restored, protected against significant disruptions, and any development authorized in or adjacent to them must maintain or enhance the habitat (LCP Objectives and Policies 5.1 et seq and 5.2 et seq, IP Chapters 16.30 and 16.32). The water quality of the Lagoon is required to be protected and improved through the use of appropriate BMPs (LCP Objectives and Policies 5.4 et seq, 5.7 et seq, and 7.23 et seq, and LCP Policies 2.23 et seq).

#### Public Access and Recreation

The LCP contains a series of interwoven policies which, when taken together, reinforce and reflect the Coastal Act mandate to maximize public access and recreational opportunities, protect existing public access and encourage public access and recreational enhancements (such as public parking, trails, and other facilities) to increase enjoyment of coastal resources and to improve access within the Live Oak coastal region (LCP Chapters 3 and 7). The LCP policies also target the Live Oak coastal area for specific enhancements, such as parking (including LCP Programs 7.5a, 7.7a and 7.7b) and clear visitor signage (LCP Program 7.7f). Existing public access use is protected (LCP policy 7.7.10). These policies are reinforced by the Coastal Act that includes requirements to maximize access, protect existing access, provide access in new development projects, and protect lands for public recreational uses and facilities (including Coastal Act policies 30210 – 30214, 30221 – 30223, and 30240(b)).

#### Priority Uses and Sites

The LCP designates both the residential property and the Coastview Drive right-of-way as “Coastal Priority Sites” to which special development standards and requirements apply (LCP Policy 2.23 et seq). The designated priority use for these sites is public access and parking, and specific requirements apply to maximize such public access and to maximize protection of Corcoran Lagoon. The sites are designated for acquisition (“D” combining park site overlay district), meaning that the LCP requires that the County evaluate the sites for potential acquisition as part of any development application.<sup>3</sup> The LCP requires that a master plan be prepared that is designed to achieve LCP priority site objectives as part of an approval. The LCP establishes a priority of uses within the coastal zone where recreational uses and facilities are a higher priority than residential uses, and the LCP prohibits the conversion of a higher priority use to a lower priority use (LCP Policy 2.22 et seq); in road improvement projects, priority is given to providing recreational access (LCP Policy 3.14 et seq). These LCP policies are more generally mimicked by the Coastal Act policies cited above.

#### Community and Scenic Character

The LCP identifies the Live Oak area as a special area with specific design criteria to protect its character (LCP 8.8 et seq). Unfortunately, the implementation portion of this special design criteria remains incomplete and the general coastal zone (IP Section 13.20.130(b)(1) and residential site design

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<sup>3</sup> Note that the County did such an evaluation and decided not to pursue acquisition.



standards (IP Section 13.10.323) are used to ensure compatibility and appropriate scale of development. Public viewsheds are protected from disruption (LCP Objectives and Policies 5.10 et seq, LCP Policy 7.7.1, aforementioned compatibility policies). Because visual access to and along the coast is also a form of public access, Coastal Act visual access policies also apply (Coastal Act Sections 30210, 30211, 30251, and 30240(b)).

## B. Analysis of Consistency with Applicable Policies

### 1. ESHA

The project includes development within the LCP-required 100-foot buffer (per the LCP, measured from the high-water mark of Corcoran Lagoon).<sup>4</sup> This includes the aforementioned Coastview Drive improvements within about 35 feet of the Lagoon, the pathway within about 25 feet, a residential driveway within about 55 feet, and future residential driveways (for the development envelopes) within about 45 feet and 75 feet respectively. Although the proposed residence (and future residences within the proposed building envelopes) would meet the 100-foot setback requirement, these related developments would not.

The Applicant's proposed project would result in additional urban infill development adjacent to Corcoran Lagoon. This will have an incremental impact on Lagoon resources. However, the Lagoon is already ringed by similar development, including existing residential development along Coastview Drive, and the incremental addition would be minor in this respect. Moreover, the Applicant's project has been designed to maintain a 100-foot setback from the Lagoon for the SFD and any future SFDs; this setback distance is generally more than that of existing Lagoon-edge development in this area. The road improvements have been minimized in their extent, are primarily located in a hard pack area already used for vehicle access to existing residences, and the project incorporates a state of the art biofiltration system for runoff. The pedestrian path would both provide through access, as well as enhanced interpretive access along the Lagoon. Long-term maintenance of the path and water quality system is included. The project incorporates construction BMPs designed to fully protect access and lagoon resources. Taken together, the roadway/driveway development within the required 100-foot setback (as well as development adjacent to the 100-foot setback), should have minor impacts on the Lagoon, and should enhance Lagoon water quality.

In order to allow the driveways, road, drainage, and path development within the required setback, a riparian exception is required (per LCP Sections 16.30.060 and 16.32.105 – see exhibit C). The five LCP-required exception findings can be made in this case. Coastview Drive provides the only access to these three residential properties, and driveways off of it are the only way to access development envelopes set back 100 feet from the Lagoon (required findings 1 and 2). The development within the required setback includes built-in measures to protect the Lagoon, appears to be the least

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<sup>4</sup> Where setbacks from the Lagoon are discussed in these findings, the setback is understood to be measured from the Applicant-identified high-water mark of the Lagoon, and not from a more precisely delineated edge of Lagoon. Similarly, where identified here, the edge of the Lagoon is taken to be the same high-water mark.



environmentally damaging feasible alternative (because there are no other access alternatives available), and because of this can be found consistent with the objectives of the LCP (required findings 3, 4, and 5).

The proposed project can be found consistent with the ESHA policies of the LCP cited above. In addition, the drainage improvements specifically are consistent with the special use standards that apply to Coastview Drive as an LCP Coastal Priority Site, as cited above.

## 2. Public Access and Recreation/Priority Site

### Trail Access

The public has long used Coastview Drive as a through public access trail connecting from inland Portola Drive through to East Cliff Drive and the beach. In part, this is the reason for the LCP's Coastal Priority Site designation and requirements. Coastview Drive provides an important through link from inland Portola Drive to the beach. This through accessway has become more important in recent years since Portola Drive was improved with curbs, gutters, landscaping, and sidewalks (providing additional inland parking and pedestrian connections), since the County acquired the former Albatross nightclub site and installed the popular Live Oak library just past the KSCO radio station on the Lagoon's edge on Portola (with the library site opening up a wealth of opportunities to provide interpretive facilities and trail access along the Lagoon's edge to the beach), and since the Sanctuary Scenic Trail (a component of the larger California Coastal Trail) currently envisions trail spurs along both Portola and East Cliff that are linked directly by Coastview Drive.

The proposed public pedestrian trail and the proposed sign changes would enhance through access from East Cliff to Portola by providing a dedicated space to move between these two roads, and providing clear direction for such use. The trail has also been designed to be consistent with and cognizant of the Lagoon aesthetic (i.e., separated from the Coastview paved area, made up of decomposed granite, and incorporating a curvilinear meander). This portion of the project should enhance public access as directed by the Coastal Act and LCP policies cited above.

### Parking Access

The Live Oak beach area is an important recreational asset for Live Oak residents, other County residents, and visitors to the area. Parking is extremely limited in this area, predominantly provided by on-street parking that itself is further limited by significant amounts of private encroachments into the public right-of-way, inadequate definition of the public-private delineation point at the street's edge, no parking and restrictive parking signs (both privately posted and posted by the County), and a peak-season preferential permit parking program. There is a high demand for additional parking areas, but publicly available property on which to construct such improvements is lacking and rising coastal land costs limit the feasibility of purchasing properties for such public uses. The LCP contains multiple policies and programs detailing the need for parking enhancement in the Live Oak beach area; the Coastal Act likewise supports such goals and requires that public parking access be maximized.

Coastview Drive has historically been used for public parking adjacent to the Lagoon. Because the road



is mostly unimproved and narrow, there isn't much space for parking, and thus past parking has been limited in this respect. Use of the Coastview Drive in this way has also been more recently restricted by existing signage and gated access discouraging parking. In part because of the parking deficit in coastal Live Oak, and in part because of the historic use of the site for public beach parking, the LCP designates the subject site, including both the vacant residential lots and Coastview Drive itself, as a priority location to maximize public beach parking (LCP Policy 2.23 et seq, LCP Programs 7.5a, 7.7a, and 7.7b).

It appears that providing public parking on the three residential properties would be infeasible for several reasons. First, the vacant residential properties are located on land that slopes away from Coastview Drive and the Lagoon (roughly a 10% slope), and it isn't clear that public parking could be physically accommodated on these sites without significant grading and disturbance. Second, they are surrounded by existing developed residential properties, and are located opposite Corcoran Lagoon, and it isn't clear that such a use would be compatible. Third, these sites, other than the flatter portion of them immediately adjacent to Coastview Drive, do not appear to have been used historically for public parking. Fourth, the use of the sites for public parking would raise significant takings issues. And finally, even if the preceding issues could be surmounted, only a limited amount of parking could possibly be provided on these properties.

As to providing public parking on Coastview, that too appears problematic at this time. Coastview Drive itself is fairly narrow, even if paved to 20 feet as proposed, and improvements to it to widen it even more significantly to provide space for additional parking (and space for cars to turn around) would raise potential Lagoon impact issues, as would the intensification of such a use adjacent to the Lagoon. Like the residential properties, it would also raise takings issues, although tempered by the use of the Coastview Drive area historically for public parking.

In this case, the project as proposed provides a different type of public access; namely the signed public pedestrian and interpretive trail. This trail is a significant access enhancement at this location. Although for a different type of access than the parking envisioned by the Coastal Priority Site policies, it can provide an equivalent benefit, and is more in tune with the Lagoon-side location than would be an expanded parking area that would only accommodate a small number of cars (probably up to a dozen if the road were expanded to the maximum in areas where such expansion were not constrained by slopes and significant riparian vegetation), and where accommodating these cars would be at the expense of further impacting Lagoon resources. As such, and because of the access and sign plans proposed, the project can be found consistent with the LCP in this regard.<sup>5</sup>

### 3. Community and Scenic Character

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<sup>5</sup> Note that the LCP's Coastal Priority Site policies require that a master development plan be developed when development is proposed on any portion of such sites. In this case, the development proposed covers all of the priority site and thus this approval is a de facto master plan. Although this can be found consistent in this special case (because this project came to the Commission on appeal long after the master plan was to have been prepared during the course of initial project review at the County), it is not the preferred implementation of this LCP requirement and the Commission expects that future projects involving Coastal Priority Sites (and required master plans) will include master plan development and review as part of the application review process.



The project is located in an area that is visible from public viewing areas (such as East Cliff Drive), and that is part of the larger Corcoran Lagoon aesthetic. The road improvements proposed should readily fit into this viewshed, particularly with the biofilter planting area and the curvilinear nature path with benches, with minor impacts, if any. The removal of the existing plethora of signs and replacement with a fewer number of signs should also help in this respect.

In terms of the proposed residential development, some amount of additional incursion into the viewshed is unavoidable if these sites are developed because they are clearly visible in public views. Additional development in the viewshed would not be an anomaly, though, because the Lagoon is surrounded by similar residential and other urban development. In this case, an approximately 2,800 square foot residence would be constructed on APN 028-173-07. Its viewshed impact is tempered by the fact that it is a long (extending away from the Lagoon) structure as opposed to a wide structure within the public viewshed (see elevations in exhibit B), and significant front yard area tree and shrub plantings are proposed to soften its front facade. Existing Lagoon vegetation and trees also provide some screening in this respect. The main Lagoon-fronting elevation shows the residence to be similar in size, scale, and design as surrounding development, and not outside of the general range of development in this part of coastal Live Oak.<sup>6</sup>

The proposed development can be found consistent with the LCP's community and scenic character policies cited above.

#### 4. Consistency Analysis Conclusion

The Applicant's proposed project will result in additional urban infill development adjacent to Corcoran Lagoon. This will have an incremental impact on Lagoon resources. However, the Lagoon is already ringed by similar development, including existing residential development along Coastview Drive, and the incremental addition would be minor in this respect. Moreover, the Applicant's project has been designed to maintain a 100-foot setback from the Lagoon for the SFD and any future SFDs; this setback distance is generally more than that of existing Lagoon-edge development in this area. The road improvements have been minimized in their extent, are primarily located in a hard pack area already used for vehicle access to existing residences, and the project incorporates a state of the art biofiltration system for runoff. The driveway, road, and path improvements are allowable within the LCP-required setback because Coastview Drive provides the only access to these residential properties, and such development includes built-in measures to protect the Lagoon, appears to be the least environmentally damaging feasible alternative (because there are no other access alternatives available), and because of this can be found consistent with the objectives of the LCP. Taken together, the roadway/driveway development within the required 100-foot setback (as well as development adjacent to the 100-foot setback), should have minor impacts on the Lagoon, and should enhance Lagoon water quality. The

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<sup>6</sup> In terms of the proposed development envelopes on the other vacant properties, these would allow for slightly smaller (APN 028-173-08) and slightly larger (APN 028-173-05) gross square footages if they are developed with residential structures because these parcels are smaller and larger, respectively, than the property to be developed now. The precise parameters of these future residential structures, as well as their consistency with the LCP in this regard, would be the subject of future CDP applications. That said, it is unlikely that they would result in any more character or viewshed degradation than the currently proposed residence.



signed pedestrian path would both provide through access, as well as enhanced interpretive access along the Lagoon. Long-term maintenance of the path and water quality system is included. The project incorporates construction BMPs designed to fully protect access and lagoon resources during construction activities to the degree feasible.

In sum, the project as now proposed represents the most resource protective project possible when all of the private property and LCP issues are weighed together for this site and this project. Residential development and access to it are minimized to the degree feasible, public interpretive access is signed and provided, and Lagoon water quality is enhanced. Conditions are included solely for clarity in project implementation and condition compliance (see special conditions 1 and 2).

Thus, as conditioned, the project addresses the previously identified substantial LCP issues and can be found consistent with the certified LCP and the applicable access and recreation policies of the Coastal Act.

### C. California Environmental Quality Act (CEQA)

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The County, acting as the lead CEQA agency, exempted the project from CEQA. In any case, the Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA. This report has discussed the relevant coastal resource issues with the proposal. All public comments received to date have been addressed in the findings above. All above findings are incorporated herein in their entirety by reference.

As shown in the foregoing, there are no additional feasible alternatives nor feasible mitigation measures available which would substantially lessen any significant adverse environmental effects which approval of the proposed project, as modified, would have on the environment within the meaning of CEQA. Thus, if so modified, the proposed project will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).

